



**Australian
Competition &
Consumer
Commission**

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

Our Ref: C2009/1394
Contact Officer: Lauren Roy
Contact Number: (02) 6243 4940

21 August 2009

Mr Adam Walker
Senior Associate
Gadens Lawyers
Level 25
600 Bourke Street
MELBOURNE VIC 3000

Dear Mr Walker

**Third line forcing notification N94052 & N94053 lodged by Collins Booksellers
Pty Ltd and Collins Book City Pty Ltd**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC). The notifications have been placed on the ACCC's public register.

You have described the notified conduct in the following terms:

A term of Collins Booksellers offering and supplying "Collins Booksellers" franchises, including franchises currently on foot, that the franchisee will acquire Book Shop Products for that franchise from Collins Booksellers' preferred suppliers

A term of Collins Book City offering and supplying "Collins City" franchises, including franchises currently on foot, that the franchisee will acquire Book Shop Products for that franchise from Collins Book City's preferred suppliers.

I note that while the notification forms were received by the ACCC on 24 July 2009, the prescribed fee for one notification was not received by the ACCC until 29 July 2009.

As a result, notification N94052 by Collins Book City Pty Ltd was validly lodged on 24 July 2009 and legal immunity commenced on 7 August 2009.

Notification N94053 by Collins Booksellers Pty Ltd was validly lodged on 29 July 2009 and legal immunity commenced on 12 August 2009.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This assessment has been made on the basis that Collins Booksellers Pty Ltd and Collins Book City Pty Ltd will disclose all relevant terms and conditions to existing and prospective franchisees. In addition, I note that the notifying parties are required to comply with disclosure requirements of the Franchising Code of Conduct in relation to the notified conduct. Among other things, these requirements specify that a franchisor must provide information to franchisees in its disclosure document about:

- any restrictions on acquisition of goods or services by the franchisee from other sources
- whether the franchisor or an associate will receive a rebate or other financial benefit from the supply of goods or services to franchisees, including the name of the business providing the rebate or financial benefit and
- whether any such rebate or financial benefit is shared directly or indirectly with franchisees.

More generally I would note that the Franchising Code of Conduct also requires disclosure of:

- ownership by a franchisor or an associate of a franchisor of an interest in any supplier from which the franchisee may be required to acquire goods or services
- any restrictions by a franchisor on the goods or services that a franchisee may supply and
- any restrictions on the persons to whom a franchisee may supply goods or services.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Lauren Roy on (02) 6243 4940.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R' followed by a horizontal line.

Dr Richard Chadwick
General Manager
Adjudication Branch